

Subsec. (a)(3), (4). Pub. L. 107–71, §140(b)(2), substituted “, Under Secretary, or Administrator” for “or Administrator” wherever appearing.

Subsec. (b). Pub. L. 107–71, §140(b)(2), substituted “, Under Secretary, or Administrator” for “or Administrator” in two places.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 46102. Proceedings

(a) CONDUCTING PROCEEDINGS.—Subject to subchapter II of chapter 5 of title 5, the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may conduct proceedings in a way conducive to justice and the proper dispatch of business.

(b) APPEARANCE.—A person may appear and be heard before the Secretary, the Under Secretary, and the Administrator in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator conducts under section 40113(a) of this title.

(c) RECORDING AND PUBLIC ACCESS.—Official action taken by the Secretary, Under Secretary, and Administrator under this part shall be recorded. Proceedings before the Secretary, Under Secretary, and Administrator shall be open to the public on the request of an interested party unless the Secretary, Under Secretary, or Administrator decides that secrecy is required because of national defense.

(d) CONFLICTS OF INTEREST.—The Secretary, the Under Secretary, the Administrator, or an officer or employee of the Administration may not participate in a proceeding referred to in subsection (a) of this section in which the individual has a pecuniary interest.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1226; Pub. L. 107–71, title I, § 140(b)(1), (2), (4)–(6), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
46102(c)	49 App.:1481 (last sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	
46102(d)	49 App.:1481 (2d sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a), the cross-reference to chapter 7 of title 5 is omitted as unnecessary.

In subsection (b), the text of 49 App.:1481 (4th sentence words after last comma) is omitted as obsolete. The words “National Transportation Safety Board” were substituted for “Board” in 49 App.:1481 (4th sentence) because 49 App.:1655(d) transferred all functions, duties, and powers of the Civil Aeronautics Board under titles VI and VII of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 775) to the Secretary of Transportation to be carried out through the former National Transportation Safety Board in the Department of Transportation. Title VI includes sections 602 and 609 [49 App.:1422, 1429], that provide for appeals to the Civil Aeronautics Board (subsequently transferred to the National Transportation Safety Board), and section 611(e) [49 App.:1431(e)], that provides for appeals to the National Transportation Safety Board. Under 49 App.:1902(a), the National Transportation Safety Board in the Department of Transportation was replaced by an independent National Transportation Safety Board outside the Department, and 49 App.:1903(a)(9)(A) gave the independent Board the authority to review appeals from actions of the Secretary under 49 App.:1422, 1429, and 1431(e).

In subsection (c), the words “vote and” are omitted as surplus.

In subsection (d), the words “officer or employee of the Administration” are substituted for “member” for clarity and consistency in the revised title and with other titles of the United States Code. The words “hearing or” are omitted as surplus. The words “referred to in subsection (a) of this section” are added for clarity.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–71, §140(b)(1), inserted “the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or” after “(or”.

Subsec. (b). Pub. L. 107–71, §140(b)(4), substituted “, the Under Secretary, and the Administrator” for “and the Administrator”.

Subsec. (c). Pub. L. 107–71, §140(b)(2), (5), substituted “, Under Secretary, and Administrator” for “and Administrator” in two places and “, Under Secretary, or Administrator” for “or Administrator”.

Subsec. (d). Pub. L. 107–71, §140(b)(6), inserted “the Under Secretary,” after “Secretary,”.

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§ 46103. Service of notice, process, and actions

(a) DESIGNATING AGENTS.—(1) Each air carrier and foreign air carrier shall designate an agent

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
46102(a)	49 App.:1481 (1st sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §1001, 72 Stat. 788. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46102(b)	49 App.:1481 (3d, 4th sentences). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

on whom service of notice and process in a proceeding before, and an action of, the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may be made.

(2) The designation—

(A) shall be in writing and filed with the Secretary, Under Secretary, or Administrator; and

(B) may be changed in the same way as originally made.

(b) SERVICE.—(1) Service may be made—

(A) by personal service;

(B) on a designated agent; or

(C) by certified or registered mail to the person to be served or the designated agent of the person.

(2) The date of service made by certified or registered mail is the date of mailing.

(c) SERVING AGENTS.—Service on an agent designated under this section shall be made at the office or usual place of residence of the agent. If an air carrier or foreign air carrier does not have a designated agent, service may be made by posting the notice, process, or action in the office of the Secretary, Under Secretary, or Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1227; Pub. L. 107–71, title I, §140(b)(1), (2), Nov. 19, 2001, 115 Stat. 641.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
46103(a)	49 App.:1485(b) (1st sentence). 49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, §1005(b), 72 Stat. 794. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704. Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, §7(b), 96 Stat. 2444.
46103(b)	49 App.:1655(c)(1).	Aug. 23, 1958, Pub. L. 85–726, §1005(c), 72 Stat. 794; re-stated Aug. 25, 1959, Pub. L. 86–199, 73 Stat. 427.
46103(c)	49 App.:1485(c).	
46103(c)	49 App.:1485(b) (last sentence). 49 App.:1551(b)(1)(E). 49 App.:1655(c)(1).	

In subsection (a)(1), the words “in a proceeding before” are added for clarity. The word “action” is substituted for “orders, decisions, and requirements” to eliminate unnecessary words. The words “for and on behalf of said carrier” are omitted as surplus.

In subsection (a)(2)(B), the words “from time to time” are omitted as surplus.

In subsection (b)(1)(B), the words “in writing for the purpose” are omitted as surplus.

In subsection (b)(1)(C), the word “addressed” is omitted as surplus.

In subsection (b)(2), the word “date” is substituted for “time” for clarity and consistency.

In subsection (c), the words “with like effect as if made personally upon such carrier” are omitted as surplus.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–71, §140(b)(1), inserted “the Under Secretary of Transportation for Security

with respect to security duties and powers designated to be carried out by the Under Secretary or” after “(or”.

Subsec. (a)(2)(A). Pub. L. 107–71, §140(b)(2), substituted “, Under Secretary, or Administrator” for “or Administrator”.

Subsec. (c). Pub. L. 107–71, §140(b)(2), substituted “, Under Secretary, or Administrator” for “or Administrator”.

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§ 46104. Evidence

(a) GENERAL.—In conducting a hearing or investigation under this part, the Secretary of Transportation (or the Under Secretary of Transportation for Security with respect to security duties and powers designated to be carried out by the Under Secretary or the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may—

(1) subpoena witnesses and records related to a matter involved in the hearing or investigation from any place in the United States to the designated place of the hearing or investigation;

(2) administer oaths;

(3) examine witnesses; and

(4) receive evidence at a place in the United States the Secretary, Under Secretary, or Administrator designates.

(b) COMPLIANCE WITH SUBPENAS.—If a person disobeys a subpoena, the Secretary, the Under Secretary, the Administrator, or a party to a proceeding before the Secretary, Under Secretary, or Administrator may petition a court of the United States to enforce the subpoena. A judicial proceeding to enforce a subpoena under this section may be brought in the jurisdiction in which the proceeding or investigation is conducted. The court may punish a failure to obey an order of the court to comply with the subpoena as a contempt of court.

(c) DEPOSITIONS.—(1) In a proceeding or investigation, the Secretary, Under Secretary, or Administrator may order a person to give testimony by deposition and to produce records. If a person fails to be deposed or to produce records, the order may be enforced in the same way a subpoena may be enforced under subsection (b) of this section.

(2) A deposition may be taken before an individual designated by the Secretary, Under Secretary, or Administrator and having the power to administer oaths.

(3) Before taking a deposition, the party or the attorney of the party proposing to take the deposition must give reasonable notice in writing to the opposing party or the attorney of record